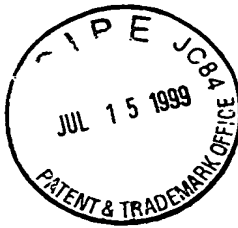


Attorney's Docket
026656.0283



Express mail No.
EM08282346545 #3

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE.

In re Application of: David W. Deaton, et al.
Filed: July 15, 1999
Title: POINT-OF-SALE SERVER AND METHOD



Honorable Assistant Commissioner
for Patents
Washington, D.C. 20231

Dear Sir:

PETITION TO MAKE SPECIAL - ACCELERATED EXAMINATION

07/26/1999 PSTANBAC 00000049 09354263

04 FC:122

Applicants ^{130.00 00} hereby submit this Petition to have this
Application granted special status pursuant to M.P.E.P.
§ 708.02, Subpart VIII.

A. Single Invention Requirement

Should the U.S. Patent and Trademark Office determine that all of the claims presented are not obviously directed to a single invention, Applicants will make an election without traverse as a prerequisite to the grant of special status.

B. Applicants Have Caused a Pre-Examination Search To Be Made

Applicants, through their attorneys, have caused a pre-examination search to be made. The search was conducted by the professional search firm of PatPro in Arlington, Virginia. The PatPro search was conducted in Class 705, specifically, subclasses 10, 14, 22, 26, 27 and 28. Foreign patents and literature were also searched. Primary Examiner Robert Weinhardt of Group 2700 was consulted by the searcher.

C. Most Closely Related References Uncovered by Search

The following references were uncovered by the search and are deemed most closely related to the subject matter encompassed by the claims of the present application:

U.S. Patent Number	Inventor	Title
4,972,504	Daniel, Jr., et al.	Marketing Research System and Method for Obtaining Retail Data on A Real Time Basis
5,612,868	Off, et al.	Method and Apparatus for Dispensing Discount Coupons
5,832,457	O'Brien, et al.	Method and Apparatus for Selective Distribution of Discount Coupons Based on Prior Customer Behavior
5,854,746	Yamamoto, et al.	Flexible Production and Material Resource Planning System Using Sales Information Directly Acquired from POS Terminals
5,857,175	Day, et al.	System and Method for Offering Targeted Discounts to Customers

A copy of each of these references is submitted with this petition. The Examiner should also note that an Information Disclosure Statement is being concurrently filed with this petition. The Information Disclosure Statement contains the above five references, as well as other references found in the search.

D. Detailed Discussion of the References

U.S. Patent No. 4,972,504, issued to Daniel, Jr. et al., (hereinafter "*Daniel*") discloses a marketing research system and method for obtaining retail data on a real time basis. The patent states that the system includes a plurality of cooperating retail stores, each having an in-store device for automatically collecting, processing and storing market research data and that each device detects, interprets, processes and stores data locally on a real-time basis with respect to the retail sales transactions occurring in the retail store. Further, the patent states that each in-store device periodically transmits the data it has collected through a bi-directional communications network to a central site, and that at the central site, the retail sales transactions data is stored for subsequent use by market researchers.

U.S. Patent No. 5,612,868, issued to Off, et al., (hereinafter "*Off*") discloses a method and apparatus for dispensing discount coupons. The patent states that the system generates a printable coupon image in a retail store solely in response to a customer's action concerning the purchase of an item in the retail store. The patent further states that the system identifies a triggering product in the customer's order, associates it with a coupon deal, and automatically generates a discount coupon for a product based on the details of the coupon deal.

U.S. Patent No. 5,832,457, issued to O'Brien, et al., (hereinafter "*O'Brien*") discloses a method and apparatus for

selective distribution of discount coupons based on prior customer behavior. The patent states that the collection of data pertaining to past behavior of customers is facilitated by filtering all sales transaction data at the point of sale. If preselected conditions for the generation of a coupon are satisfied, the coupon is generated and printed at the checkout stand.

U.S. Patent No. 5,854,746, issued to Yamamoto, et al., (hereinafter "*Yamamoto*") discloses a flexible production and material resource planning system using sales information directly acquired from POS terminals. The patent states that the system allows a timely collection of accurate sales information from retail outlets and a flexible production of goods in accordance with the same information, and that the production system includes a retail sales information collecting device, and a production quantity setting device for determining a production quantity from the sales information. The patent also states that the system includes a directing device for directing the preparation and production of raw materials according to the determined production quantity, and that the system further includes a production device for producing the determined production quantity when so directed.

U.S. Patent No. 5,857,175, issued to Day, et al., (hereinafter "*Day*") discloses a system and method for offering targeted discounts to customers. The patent states that the system provides a paperless coupon system that tracks consumer purchasing behavior and that the system presents special offers (promotions) to customers. The patent further states that the

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special offers include customized targeted offers for specific customers, and that the system allows manufacturers to select which consumers obtain discounts and how large of a discount the consumers receive.

E. The Pending Claims Define Over the Cited References

The pending claims define over the above-recited references. None of the references disclose, teach, or suggest transmitting information collected at a point-of-sale on a substantially real-time basis to a remote computer, as described and claimed by Applicants. Further, none of the references disclose, teach, or suggest transmitting information collected at a point-of-sale on a substantially real-time basis to a remote computer connected to the Internet, which is also described and claimed by Applicants. Therefore, Applicants respectfully submit that the claimed invention clearly defines over and is distinguishable from the references known to the Applicants and disclosed herein.

For example, *Daniel* discloses that "each in-store device 12 is assigned a *periodic* communications session schedule [to execute a communications session with the central site 24], for example, a nightly communications schedule, along with alternative times if an attempt to establish communications with the central site 24 is unsuccessful" (col. 17, lines 28-34). Therefore, data collected by the in-store devices is not transmitted to a remote computer on a substantially real-time basis. Furthermore, *Daniel* does not disclose that the central site is connected to the Internet and that the point-of-sale information is transmitted over the Internet. The patent does disclose specific means of connection to the central site. However, none of these means of connection is the Internet.

Off discloses a system that generates a printable coupon image in a retail store solely in response to a customer's action

concerning the purchase of an item *in the retail store*. The only interaction with a remote computer disclosed is a host computer 16 that controls communications with all store controllers 10 in the retailer's various stores, and is responsible for generating various accounting reports. The system disclosed in *Off* does not utilize substantially real-time transmission of point-of sale-information over the Internet to a remote computer.

Similarly, *O'Brien*, which is a continuation-in-part of *Off*, also discloses that a host computer 30 controls communications with the personal computer 20 in the retail store, and is responsible for generating various accounting reports. The system disclosed in *Off* does not utilize substantially real-time transmission of point-of sale-information over the Internet to a remote computer.

Yamamoto discloses that each point-of-sale terminal unit 1 that collects retail sales information stores the "product names and the quantity of each product sold and transmits the stored information to the host computer H *daily at a fixed hour of the day*." Therefore, it is clear that *Yamamoto* does not disclose, teach or suggest substantially real-time transmission of point-of-sale information to a remote computer on the Internet.

Finally, *Day* discloses a supervisory computer 16 that is networked with store level computers 12. *Day* discloses that "the supervisory computer is used to perform special offer maintenance, category management, network administration, system administration, and is optionally used for software distribution" (col. 3, lines 38-41). The communications between the

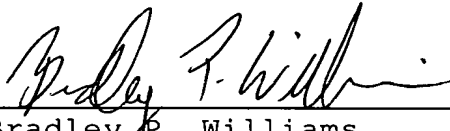
supervisory computer and the store level computers is disclosed as being periodic. For example, "the supervisory computer 16 *periodically* downloads special offers to the store level computers" (col. 3, lines 57-58). Day does not disclose, teach, or suggest that point-of-sale information is transmitted to a remote computer on a substantially real-time basis.

Conclusion

By this Petition to Make Special, Applicants respectfully request that the above-identified Application be granted special status pursuant to M.P.E.P. § 708.02, Subpart VIII. Enclosed is a check in the amount of \$130.00 to cover the filing fee specified in 37 C.F.R. § 1.17(i). The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker & Botts, L.L.P. Early and favorable acceptance of this Petition and Application is respectfully requested.

Respectfully submitted,

BAKER & BOTTS, L.L.P.
Attorneys for Applicants



Bradley P. Williams
Reg. No. 40,227

2001 Ross Avenue
Dallas, Texas 75201-2980
(214) 953-6447

Date: July 15, 1999